IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3973 of 1988
with
SPECIAL CIVIL APPLICATION No 5650 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GOVT CENTRAL PRESS CLERICAL STAFF ASSOCIATION

Versus

STATE OF GUJARAT

Appearance:
M/S NJ MEHTA ASSO. for Petitioners
MR DP JOSHI, AGP for Respondent No. 1, 3
MR RJ OZA for Respondent No. 2

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 19/01/2001

COMMON ORAL JUDGEMENT

#. Common cause has arisen in both the matters. The petitioners have also challenged the same circular, hence, the petitions are disposed of by this common judgment.

#. By a Govt. Resolution dated 24.2.84, office of the Govt. Central Press was working from 10.30 a.m. to 5.30 p.m. from Monday to Friday and every Saturday from 10.30 a.m. to 2.00 p.m. It seems that thereafter in view of the resolution at Annexure : B timings were changed and the Govt. offices started working from 10.30 a.m. to 6.10 p.m. with the permissible recess hours. Different timings were set out for different classes of servants. By resolution dated 24th February, 1984, it was also decided that 1st and 3rd Saturdays of each month and if there is 5th Saturday in the month, 5th Saturday also be treated as full working day while 2nd and 4th Saturdays of each month be treated as full holidays. After the resolution dated 24th February, 1984, the Govt. offices under its control control were functioning as per the timings and on the days indicated hereinabove. In view of the latter resolution, Annexure : C, dated 2nd February, 1987, working hours were increased for working days including the working Saturdays. Vide Annexure : D, Manager, Government Central Press, Gandhinagar conveyed information that the clerical staff will work on all Saturdays from 10.30 a.m. to 2.20 p.m. and not as per the Govt. Resolution. It seems that after this resolution, one of the petitioners claiming to be the President of the Association, addressed a letter stating therein that as per the timings which are indicated in the circular Annexure : C, he is prepared to work. However, he stated that on 2nd and 4th Saturday, he will not work and will observe holidays as per the Govt. Resolution. Thereafter, by a letter dated 16.1.98, vide Annexure : F, order was made for recovery of the amount of Rs. 882.10 ps. calling upon the petitioner of Spl.C.A. 3973/98 to pay 8 installments each of Rs. 100/- and 9th instalment of Rs. 82.10 ps. In the order dated 16.1.88 Annexure : F, it is mentioned that the timings were fixed for all Saturdays from 10.30 a.m. to 2.30 p.m. However, the petitioner no. 2 from 28.2.87 (4th Saturday) to 28.11.87 (for all 2nd & 4th Saturdays) has remained absent without leave being sanctioned. However, it is not specifically mentioned in the order that the petitioner no. 2 worked on remaining Saturdays from 10.30 a.m. to 2.20 p.m. If he did not work for Saturdays for the remaining period, then he was not entitled to salary which is sought to be recovered from him. What Mr. Mehta, learned counsel for the petitioners is claiming is that the petitioners worked on the working Saturdays for full time i.e. from 10.30 a.m. to 6.10 p.m. Therefore, there is no question for them to work on remaining 2nd and 4th Saturdays or 5th Saturday. In the order, there is specific mention about remaining

absent on 2nd and 4th Saturdays. However, there is no specific finding that he did not work on 1st, 3rd and 5th Saturdays for the full day or for the half day i.e. from 10.30 a.m. to 2.20 p.m. It seems that in view of this, the rule was issued. Till today, reply is not filed. In the petition, the petitioner has specifically averred on oath in para 12 as under.

"Petitioner and all the members of the Association perform duties and responsibilities subsequently on all first, third and fifth Saturdays fully, i.e. the petitioners worked from 10.30 a.m. to 6.10 p.m. on all first, third and fifth Saturdays after 21.2.1987, and they have informed the respondents about the same. The respondents did not reply to the petitioners. Therefore, the petitioners have reason to believe that respondents have accepted their request and have permitted the petitioners to work on first, third and fifth Saturdays, for the whole day and allowed the request of the petitioners to observe holidays on second and fourth Saturdays of every month."

In absence of positive finding recorded by respondent no.3 to the effect that the petitioners did not work on 1st, 3rd and 5th Saturdays fully and worked only from 10.30 a.m. to 2.20 p.m. on all Saturdays, the order cannot be sustained. In view of this, it is directed that the respondents shall hear the petitioners and shall record specific finding and if the petitioners in fact have not worked as they have claimed in the petition, it would be open for the respondents to recover the amount with interest at the rate of 18 per cent per annum.

#. It is very much surprising that the petitions are filed in 1988 and till this day, replies are not filed by the State Government or the Director of Government Printing & Stationery Department. Chief Secretary is requested to examine this matter either personally or through other competent officer to inquire into the matter for not submitting the reply in the Court and to submit the report to the Court within a period of three months from today indicating the action taken. The petitions are allowed with the aforesaid directions. Rule is made absolute in both the petitions.

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